



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 22, 2005

Ms. Pamela Smith  
Sr. Assistant General Counsel  
Texas Department of Public Safety  
Box 4087  
Austin, TX 78773-0001

OR2005-01554

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 218841.

The Texas Department of Public Safety (the "department") received a request for the vehicle inspection history of a particular truck. You claim that the requested information is excepted from disclosure under section 552.129 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.129 of the Government Code provides as follows:

A record created during a motor vehicle emissions inspection under Subchapter F, Chapter 548, Transportation Code, that relates to an individual vehicle or owner of an individual vehicle is excepted from [required public disclosure].

Gov't Code § 552.129. In the correspondence submitted to our office, you inform us:

The vehicle in question was inspected in a county in which there is an emissions testing program in place pursuant to Sec. 548.301, *et seq.* of the Transportation Code. In these counties, both a safety inspection and an emissions test are required. Most people, including the owner of the vehicle in question, have the safety inspection and the emissions test done at the same time. The inspection station generates a single report, incorporating both the safety inspection results and the emissions testing results, which is provided

to the Texas Commission on Environmental Quality (TCEQ) in an electronic format and stored in a TCEQ database.

You further state that the department has access to this TCEQ database, and you have printed from it the documents submitted as responsive to the request. Based on the information you have provided, we understand you to represent that the information at issue was “created during a motor vehicle emissions inspection under Subchapter F, Chapter 548, Transportation, [and] relates to an individual vehicle or [the] owner of an individual vehicle.” Having considered your arguments and representations and reviewed the submitted documents, we conclude that section 552.129 applies to this information. Therefore, the submitted information must be withheld in its entirety under section 552.129 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep’t of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'Elizabeth A. Stephens', with a stylized, flowing script.

Elizabeth A. Stephens  
Assistant Attorney General  
Open Records Division

EAS/krl

Ref: ID#218841

Enc. Submitted documents

c: Ms. Candace B. Ballard  
Johnson, Spalding, Doyle, West & Trent  
910 Travis Street, 17<sup>th</sup> Floor  
Houston, TX 77002  
(w/o enclosures)